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Colleges, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

CYNTHIA PRECIADO,

Plaintiff,

v.

CONCORDE CAREER COLLEGES, INC., a
Foreign Business Corporation; KEITH
KNITTLE, an individual,

Defendants.

Case No.

**DEFENDANT CONCORDE CAREER
COLLEGES, INC.'S NOTICE OF
REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, and
1446 (Diversity)

Multnomah County Circuit Court
Case No. 22CV34541

TO: United States District Court for the District of Oregon; Clerk of the Multnomah County Circuit Court; and Gregory Kafoury, Mark McDougal, Jason Kafoury, and Kafoury & McDougal, attorneys for plaintiff:

PLEASE TAKE NOTICE that defendant Concorde Career Colleges, Inc. (“defendant Concorde”), hereby removes this case, currently pending in the Circuit Court for the County of Multnomah, to the United States District Court for the District of Oregon, Portland Division. As grounds for removal, defendant Concorde states the following:

On or about October 7, 2022, Cynthia Preciado (“plaintiff”) filed a lawsuit in Multnomah County Circuit Court, styled as *Cynthia Preciado v. Concorde Career Colleges, Inc. and Keith*

Knittle (the “State Court Action”). Pursuant to 28 U.S.C. § 1446(a), copies of “all process, pleadings, and orders” delivered to defendant Concorde are attached as **Exhibit 1**.

1. In the State Court Action, plaintiff purports to allege a complaint for battery and negligence against defendant Concorde and battery against defendant Keith Knittle. (*See* Compl. ¶¶ 8-13.)

DIVERSITY JURISDICTION

2. The United States District Court for the District of Oregon has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because complete diversity of citizenship exists between the parties, and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

3. Citizenship of Parties. The named parties are of completely diverse citizenships.

a. Plaintiff is a resident of Washington County, Oregon. Thus, plaintiff is a citizen of Oregon for purposes of diversity jurisdiction.

b. Concorde Career Colleges, Inc. (hereafter “defendant Concorde”) is a Delaware for-profit vocational college, with its principal place of business in Mission, Kansas. (*See* Declaration of Carter M. Mann In Support of Concorde’s Notice of Removal (“Mann Decl.”) ¶ 2.) Thus, defendant Concorde is a citizen of Delaware and Kansas for purposes of diversity jurisdiction. *See* 28 U.S.C. § 1332(c)(1) (“[A] corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business[.]”).

c. Defendant Keith Knittle is a resident of Ridgefield, Washington. Thus, Mr. Knittle is a citizen of Washington for purposes of diversity jurisdiction. (*See* Mann Decl. ¶ 3.) Mr. Knittle has not been served with the Summons and Complaint in this action. Nevertheless, Mr. Knittle consents to removal of this action to the United States District Court for the District of Oregon. (*See* Mann Decl. ¶ 4.)

4. Amount in Controversy. Plaintiff’s Complaint seeks relief in excess of the amount in the controversy requirements of 28 U.S.C. §1332(a). (*See* Compl. ¶ 11; (Prayer for Relief

seeking an amount not to exceed \$750,000.00, and for costs and disbursements.)) Accordingly, the matter in controversy that is the subject of this litigation exceeds the jurisdictional threshold.

5. Because plaintiff and both defendants are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs, this Court has original jurisdiction to hear the dispute under 28 U.S.C. § 1332.

PROCEDURAL REQUIREMENTS

6. Removal to Proper Court. The action is removable to this Court because this district embraces Multnomah County, Oregon, where the State Court Action is now pending.

7. Removal Is Timely. Concorde was served with the Summons and Complaint on October 17, 2022. (**Exhibit 1** at 6.) Therefore, pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely. *See Murphy Bros. Inc. v. Michetti Pope Stringing Inc.*, 526 U.S. 344, 347-48 (1999) (“[W]e hold that a named defendant’s time to remove is triggered by simultaneous service of the summons and complaint, or receipt of the complaint, ‘through service or otherwise,’ after and apart from service of the summons, but not by mere receipt of the complaint unattended by any formal service.”) Removal is proper based upon diversity jurisdiction, and therefore the requirements of 28 U.S.C. § 1441(b) are met in that the entire case may be removed to this Court.

8. Pleadings and Process. Attached hereto as **Exhibit 1** is a copy of all process, pleadings, and orders received by defendant Concorde concerning the State Court Action. *See* 28 U.S.C. § 1446(a).

9. Notice. A copy of the Notice of Filing of Removal to Federal Court and Notice to Adverse Party of Removal will be timely filed with the clerk of the state court in which the action is pending and served on plaintiff pursuant to 28 U.S.C. § 1446(a), (d) (attached hereto as **Exhibit 2**, excluding exhibits).

10. Signature. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11. *See* 28 U.S.C. § 1446(a).

11. Based upon the foregoing, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332, and the claims may be removed to this Court under 28 U.S.C. §§ 1441 and 1446.

12. In the event that plaintiff seeks to remand this case, or the Court considers remand *sua sponte*, defendant Concorde respectfully requests the opportunity to submit such additional argument or evidence in support of removal as may be necessary.

13. Defendant Concorde has good and sufficient defenses to this action and does not waive any defenses, jurisdictional or otherwise, by the filing of this Notice.

WHEREFORE, defendant Concorde Career Colleges, Inc. removes this action from the Circuit Court for the State of Oregon, for the County of Multnomah, to the United States District Court for the District of Oregon, Portland Division.

DATED: November 8, 2022

LANE POWELL PC

By: s/ Carter M. Mann
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Attorneys for Defendant Concorde Colleges, Inc.

CERTIFICATE OF SERVICE

I, Carter M. Mann, hereby certify that on this 8th day of November, 2022, I caused a copy of the foregoing **DEFENDANT CONCORDE CAREER COLLEGES, INC.’S NOTICE OF REMOVAL** to be served via U.S. Mail and electronic mail, on the following:

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Gregory Kafoury
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Defendant

s/ Carter M. Mann
Carter M. Mann